

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gene Schildkraut	Team: Team # 5	CCRB Case #: 200614603	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/23/2006 4:00 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 4/23/2008	Precinct: 46		
Date/Time CV Reported Fri, 10/27/2006 6:18 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 11/01/2006 4:23 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Frederic Ortiz	29958	935440	046 PCT
2. SGT Jerome Perry	03510	913793	046 PCT
3. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Edward Garcia	12091	934288	046 PCT
2. POM Michael Dealmeida	10879	928163	046 PCT
3. POM Raymond Rodriguez	08185	921720	046 PCT
4. POM David Torren	02010	916806	046 PCT
5. POM Gregory Mullarkey	22517	922844	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A . Officers	Force: Inside § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	§ 87(2)(b)
B . Officers	Discourtesy: Inside § 87(2)(b) in the Bronx, officers spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
C . POM Frederic Ortiz	Discourtesy: Inside § 87(2)(b) in the Bronx, Officer Frederic Ortiz spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
D . SGT Jerome Perry	Abuse: Sergeant Jerome Perry authorized the entry and search of § 87(2)(b) apartment § 87(2)(b) in the Bronx.	§ 87(2)(b)
E . SGT Jerome Perry	Abuse: Inside the 46th Precinct stationhouse, Sergeant Jerome Perry authorized the strip-search of § 87(2)(b)	§ 87(2)(b)

## Synopsis

On October 23, 2006, at 6:20 PM, police officers assigned to the 46<sup>th</sup> Precinct SNEU (Street Narcotics Enforcement Unit) entered the lobby of § 87(2)(b) in the Bronx. An unidentified officer approached § 87(2)(b) who was standing in the lobby, and allegedly put his arms around § 87(2)(b)'s neck, brought him to the ground and punched § 87(2)(b) in the face (allegation A) before handcuffing him. § 87(2)(b) told the unidentified officer that the handcuffs were too tight, and the officer allegedly responded, "Shut the fuck up" (allegation B). § 87(2)(b) was then escorted to the prisoner van. Inside the prisoner van, the unidentified officer allegedly punched § 87(2)(b) in the stomach (allegation A). § 87(2)(b)'s girlfriend, § 87(2)(b) entered the lobby and told her son, who was in the lobby after returning from the store, to come upstairs with her. An officer identified as Officer Frederic Ortiz allegedly told her, "No one told you to send your fucking § 87(2)(b) year old son to the store" (allegation C).

Officer Ortiz and two other officers, identified as Officer Edward Garcia and Sergeant Jerome Perry, went upstairs to apartment § 87(2)(b) where § 87(2)(b) lived with § 87(2)(b). The officers spoke with § 87(2)(b) and she told them that they could enter the apartment. The officers then entered and searched the apartment (allegation D). One of the officers wrote a letter stating that § 87(2)(b) was not coerced to permit their entry, which § 87(2)(b) signed.

[REDACTED] § 87(2)(b) was arrested [REDACTED] § 87(2)(b)

[REDACTED]

[REDACTED] § 87(2)(b), § 87(2)(g)

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] § 87(2)(b), § 87(2)(g) [REDACTED] § 87(2)(b) [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] § 87(2)(b) [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] § 87(2)(b) [REDACTED]

[REDACTED] § 87(2)(b) [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] § 87(2)(b) [REDACTED]

[REDACTED]

### Summary of Complaint

§ 87(2)(b) (complainant/victim) is a § 87(2)(b) year old black female, 5'7" tall, 150 pounds, with brown hair and brown eyes. § 87(2)(b) filed this complaint with the Internal Affairs Bureau on October 27, 2006 (enclosure 5a-c). It was received at the CCRB on November 1, 2006 (enclosure 6a-c). She made a statement during a telephone conversation with the undersigned investigator on November 6, 2006 (enclosure 7a-b), and she was interviewed at the CCRB on November 16, 2006 (enclosure 8a-g). A copy of a note § 87(2)(b) wrote during this incident was obtained when Officer Michael Dealmeida was interviewed on May 15, 2007 (enclosure 4). § 87(2)(g)

On October 23, 2006, § 87(2)(b) was in her home located at § 87(2)(b) apartment § 87(2)(b) in the Bronx, with her two children and § 87(2)(b) with whom she had lived for two years. § 87(2)(b) asked § 87(2)(b) to take the children on some errands, but the children wanted to eat before leaving, and § 87(2)(b) left the apartment to go downstairs and wait for them. The children left the apartment when they finished eating. An undetermined time later, § 87(2)(b)'s daughter returned and told her that officers arrested § 87(2)(b) in the lobby of the building. § 87(2)(b) went to the lobby and saw § 87(2)(b) in handcuffs and an unidentified officer (white male, approximately 5'4" tall with a chubby build) unzipping § 87(2)(b)'s pants. § 87(2)(b) identified Officer Edward Garcia (Hispanic male, approximately 5'2" to 5'5" tall with a medium build,

approximately thirty years to forty years old, with black/gray hair and a medium complexion) and Officer Frederic Ortiz (white male, approximately 5'5" tall and thirty-five to forty years old, mostly bald with some dark-brown hair and brown eyes) and said that they were in the lobby. Two other unidentified officers whom she was only able to describe as males wearing jackets with white lettering spelling NYPD, were also in the lobby. There were four civilians in the lobby other than § 87(2)(b). § 87(2)(b) identified § 87(2)(b) who lived in § 87(2)(b) apartment § 87(2)(b). She also described another female who lived at an unknown address in the vicinity; a black male who had recently moved into an unknown apartment in § 87(2)(b) and an individual identified by this investigation as § 87(2)(b) who had recently moved into § 87(2)(b) apartment § 87(2)(b).

§ 87(2)(b)'s son was still outside the building when § 87(2)(b) came downstairs. § 87(2)(b) told her son, "§ 87(2)(b), bring your fucking ass over here to me." An officer, whom § 87(2)(b) identified by name and identified by this investigation as Officer Frederic Ortiz, told § 87(2)(b) that no one was allowed to enter the building. When § 87(2)(b) told Officer Ortiz that she wanted her son, he said, "No one told you to send your fucking § 87(2)(b) year old son to the store." During her telephone statement, § 87(2)(b) stated that Officer Ortiz told her, "No one told you to send a § 87(2)(b) year old boy to the store by himself."

Another officer § 87(2)(b) did not provide a description of this officer) asked § 87(2)(b) to provide some identification showing that § 87(2)(b) lived at § 87(2)(b). § 87(2)(b) went upstairs to her apartment and returned with the requested ID, which she gave to the officer. The officer then told her that they were going to call a sergeant so they could search her apartment. § 87(2)(b) and the other four civilians were taken outside to a black van. The three males were put into the van, and the two females were released.

Sergeant Jerome Perry (black male, approximately 5'9" tall, bald and with a heavy build) arrived approximately five minutes later. Sergeant Perry introduced himself to § 87(2)(b) and asked about her relationship with § 87(2)(b). § 87(2)(b) told Sergeant Perry that § 87(2)(b) was her husband. Sergeant Perry told § 87(2)(b) that they observed § 87(2)(b) selling narcotics, and they had to go up to her apartment to search for drugs. He also told her that they received complaints regarding her husband from her neighbor in apartment § 87(2)(b). Sergeant Perry said, "We know that you have an ACS case for domestic violence," which made § 87(2)(b) feel pressured to allow the officers to search her apartment. § 87(2)(b) asked Sergeant Perry if he had a search warrant, and Sergeant Perry replied that he did not have one.

§ 87(2)(b) Sergeant Perry and Officers Garcia and Ortiz went to the § 87(2)(b) floor where Sergeant Perry introduced Officers Garcia and Ortiz to § 87(2)(b). As they stood in the hallway, § 87(2)(b)'s neighbor § 87(2)(b), opened her apartment door and told the officers, "Check the bathroom. There are drugs in the bathroom." § 87(2)(b) asked Sergeant Perry if they could continue talking inside her apartment, and she and the officers entered her apartment.

One of the officers entered § 87(2)(b)'s son's room and asked her son questions; § 87(2)(b) did not recall if the officer was Officer Garcia or Officer Ortiz. Sergeant Perry wrote a letter giving the officers permission to search the apartment, and he told § 87(2)(b) to sign the letter or the officers would take away her children. § 87(2)(b) signed the note, which stated that at approximately 5:00 PM on October 23, 2006, § 87(2)(b) gave permission to Sergeant Perry and Officers Garcia and Ortiz to search her bedroom and that she was not coerced, forced or threatened by any member of service regarding the search.

The officers searched § 87(2)(b)'s bedroom and asked her which side of the bed was § 87(2)(b)'s. § 87(2)(b) stopped the officers when they were going to search her underwear drawer, because she felt it was disrespectful of them to search there. Sergeant Perry told her that if they found contraband in the apartment that they would charge her and not § 87(2)(b) with their possession because § 87(2)(b)'s name was on the apartment's lease. The officers were in the apartment for between thirty and forty-five minutes before leaving. No contraband was found in the apartment.

### **Results of Investigation**

#### **Victim statements**

§ 87(2)(b) (*victim*)

§ 87(2)(b) made a statement via telephone on November 8, 2006 (enclosure 9). He was interviewed at the CCRB on November 15, 2006 (enclosure 10a-h). On November 15, 2007, at Riker's

Island § 87(2)(b) § 87(2)(b) viewed photographs of the officers involved in this complaint (enclosure 11a-i). § 87(2)(b) is a § 87(2)(b) year old black male, 5'5" tall, 170 pounds, bald, brown eyes. § 87(2)(b), § 87(2)(g)

On October 23, 2006, § 87(2)(b) was waiting for his son and daughter to return from school. He was standing in the lobby of § 87(2)(b) where he resides, between the doors to the inner lobby and the doors leading outside. He was wearing a green jacket, blue jeans and a black shirt. Three females, one of whom lives in § 87(2)(b) apartment § 87(2)(b) (later identified by this investigation as § 87(2)(b) and a male were also in the lobby. § 87(2)(b) identified this individual as § 87(2)(b) from apartment § 87(2)(b) during his phone statement and as the superintendent's brother, who was identified by this investigation as § 87(2)(b) during his interview at the CCRB. This investigation identified the superintendent was identified as § 87(2)(b). § 87(2)(b) only spoke with § 87(2)(b) and he did not shake hands with anyone or talk to anyone other than § 87(2)(b).

Six or seven police officers arrived at the building in black Lincoln taxi, a black Chevrolet Impala and a black unmarked van. § 87(2)(b) recognized three of the officers from previous interactions he had with them. He identified Officer Edward Garcia (white/Hispanic male, 5'7" tall, § 87(2)(b) old, short hair, medium to stocky build, wearing a black hooded sweatshirt, jeans, a white shirt and Timberland boots), Officer Frederic Ortiz (Hispanic male, tall, bald, in his thirties and wearing black glasses and a hooded sweatshirt), and Sergeant Jerome Perry (white male, tall, white hair, in his forties and wearing a blue jacket with NYPD written on it). The officers entered the lobby and handcuffed the three females.

An officer approached § 87(2)(b) told him he was under arrest, and wrapped his arm around § 87(2)(b)'s neck and held it in place with his other arm. In his phone statement, § 87(2)(b) described this officer as a white male with salt-and-pepper hair, wearing blue jeans, a white shirt and Timberland boots. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)'s breathing was not restricted when the officer put his arms around § 87(2)(b)'s neck. The officer brought § 87(2)(b) to the ground by some means that he did not recall and then handcuffed § 87(2)(b) while maintaining his hold around § 87(2)(b)'s neck. § 87(2)(b) told the officer that the handcuffs were too tight, and the officer told him to "Shut the fuck up." The officer also punched § 87(2)(b) in the ear, face and back. (During his phone statement, § 87(2)(b) alleged that he was kicked while on the ground, though he did not repeat this allegation in subsequent statements). § 87(2)(b) was unable to recall when he was punched, and later in his CCRB interview, § 87(2)(b) stated that Officer Garcia punched him once in the face. § 87(2)(b) complained that his back was injured as a result. He did not sustain any other injuries, and his arrest photograph does not show any injuries to his head or face (enclosure 10e). § 87(2)(b) said that he received medical treatment § 87(2)(b).

Another unidentified officer pointed his gun § 87(2)(b)'s head and told him to "Get the fuck down." In his phone statement, § 87(2)(b) alleged that this officer was Officer Ortiz and that the gun was pointed at the superintendent's head. During his CCRB interview, § 87(2)(b) described this officer as a white male, 5'5" tall, chubby build, salt-and-pepper hair, forty years old, wearing a blue NYPD jacket with white lettering, § 87(2)(g), and that the gun was pointed at § 87(2)(b)'s head. § 87(2)(b) was already on the ground when the officer pointed his gun at § 87(2)(b).

§ 87(2)(b) witnessed part of § 87(2)(b)'s interaction with the officers, though he did not recall when she arrived. Sergeant Jerome Perry (described as "a big fat guy" and was later identified by this investigation) asked § 87(2)(b) for § 87(2)(b)'s ID. Three officers, including the officer who handcuffed him, remained in the lobby, while an unspecified number of officers, including the "big fat guy" and the officer who pointed his gun at § 87(2)(b) went to § 87(2)(b)'s apartment. The officer who handcuffed him lifted him from the ground and escorted him to the unmarked black van. The three females were released, and § 87(2)(b) was put into the van, where he saw three other handcuffed males. The officer who handcuffed him told § 87(2)(b) that § 87(2)(b) sold drugs to the three males. § 87(2)(b) told the officer that he had never before seen the males.

The officer who drove the van (white male, thirty years old) told § 87(2)(b), "§ 87(2)(b), we know you." § 87(2)(b) did not recognize this officer. § 87(2)(b) sat behind the officer who handcuffed him, and the officer turned and punched § 87(2)(b) in the stomach.

§ 87(2)(b) was taken to the 46<sup>th</sup> Precinct stationhouse where an officer who was not present during his arrest (no description provided) instructed § 87(2)(b) to remove his clothes. § 87(2)(b)

complied, and he was told to squat. The officer who handcuffed him and the unmarked van's operator were present during the strip-search.

§ 87(2)(b) was charged § 87(2)(a) 160.50. § 87(2)(b) stated that he had a history of selling narcotics but that he stopped, he did not sell drugs on October 23, 2006, and the officers did not find narcotics on him or at the scene.

On November 15, 2007, § 87(2)(b) viewed photographs of the officers involved in this incident. He recognized Officer Ortiz, though he identified him as Officer Garcia, and he stated that Officer Ortiz was the first officer to enter the building, knocked § 87(2)(b) to the ground and told him that he was under arrest. Officer Ortiz was also involved in the strip-search at the 46<sup>th</sup> Precinct stationhouse. § 87(2)(b) also recognized Sergeant Perry, though he did not recall Sergeant Perry's name. He stated that Sergeant Perry was also involved in the strip-search at the stationhouse. § 87(2)(b) recognized Officer Dealmeida as the officer who lifted § 87(2)(b) from the ground after he was handcuffed and told him to "Shut the fuck up." Officer Michael Dealmeida also put both of the female individuals in the lobby in handcuffs. § 87(2)(b) also recognized Officer David Torren as the officer who put § 87(2)(b) into the unmarked van and punched § 87(2)(b) in the face, an allegation that § 87(2)(b) did not make during either of his other statements. § 87(2)(b) recognized Officer Garcia as the officer who punched § 87(2)(b)'s left cheek and strip-searched him at the stationhouse. § 87(2)(b) did not recognize either Officer Raymond Rodriguez or Officer Anthony Lagares.

§ 87(2)(b) stated that he did not know anyone named "§ 87(2)(b) § 87(2)(b), § 87(2)(b) or § 87(2)(b)

#### **Witness statements**

§ 87(2)(b) (*witness*)

§ 87(2)(b) provided the following statement via telephone on April 25, 2007 (enclosure 12). This investigation was unable to obtain pedigree information or a verified statement from § 87(2)(b). She acknowledged being present during this incident. § 87(2)(b), § 87(2)(g)

Below is the additional information she provided.

On October 23, 2006, § 87(2)(b) walked to a store with her friend § 87(2)(b) (last name unknown) from § 87(2)(b) where § 87(2)(b) resides in apartment § 87(2)(b). § 87(2)(b) could not provide contact information for § 87(2)(b) aside from that § 87(2)(b) lives in the neighborhood. § 87(2)(b)

As they left § 87(2)(b) § 87(2)(b) saw § 87(2)(b) a man she knew as "§ 87(2)" (described as a Jamaican male), and § 87(2)(b) who lives near the elevator. When § 87(2)(b) and § 87(2)(b) returned to § 87(2)(b) she saw that the superintendent, § 87(2)(b), was in the lobby.

As § 87(2)(b) and § 87(2)(b) entered the lobby, two officers (Hispanic male, 5'6" tall, thick build, wearing a black hair, a black jacket and a sweater; and a second Hispanic male) entered the lobby and said, "Put your fucking hands up." The officers put § 87(2)(b) and "§ 87(2)" on the floor and everyone else against the walls. § 87(2)(b) said that the officers stomped § 87(2)(b)'s and "§ 87(2)(b)" faces on the floor, but she was unable to describe what she saw because she was already pushed against the wall. She did not see which officer put § 87(2)(b) on the floor.

The officers handcuffed § 87(2)(b) and § 87(2)(b) and took them to a van where they waited for five minutes before being released. Another unidentified officer (Hispanic/white male, 5'8" to 5'9" tall with a slim build) told § 87(2)(b) that the officers were watching § 87(2)(b) and § 87(2)(b) and § 87(2)(b) walked into the building just as the officers received the order to enter.

§ 87(2)(b) was scheduled for an interview at the CCRB on April 30, 2007, for which she failed to appear. On May 14, 2007, § 87(2)(b) informed the undersigned investigator that she no longer wished to participate in this case.

#### **Attempts to contact additional civilians**

On November 29, 2007, Investigators Schildkraut and Baez traveled to § 87(2)(b) in the Bronx and spoke with § 87(2)(b) who has worked § 87(2)(b), and his brother, § 87(2)(b). Both of them stated that they were not present when § 87(2)(b) was arrested on October 23, 2006. This investigation found § 87(2)(b), who resides § 87(2)(b) apartment § 87(2)(b) who said that he was there when § 87(2)(b) was arrested on October 23, 2006. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) was not arrested as a result, and § 87(2)(b) then stated that he was never present for any of the times when § 87(2)(b) was arrested.

§ 87(2)(b) was identified as a witness on January 25, 2007. A search of the New York City Department of Corrections (DOC) online inmate lookup service conducted on May 3, 2007, confirmed that § 87(2)(b) was not incarcerated. § 87(2)(b) had been discharged on § 87(2)(b). The NYC DMV (Department of Motor Vehicles) records and a Lexis-Nexis search provided additional contact information for § 87(2)(b). On November 15, 2007, the undersigned investigator attempted to contact § 87(2)(b) using the new contact information and contacted an individual who would not identify herself. This individual told the undersigned investigator that she knew § 87(2)(b)'s mother, but she could not provide contact information for her. The undersigned investigator sent letters to § 87(2)(b) on December 14, 2007, and January 28 and 31, 2008. The first letter was returned by the United States Postal Service; the other letters have not been returned. No additional contact information could be found for § 87(2)(b) in Cole's Directory or 411.com. § 87(2)(b) has not responded to contact attempts.

§ 87(2)(b) and § 87(2)(b) were identified from the 46<sup>th</sup> Precinct command log for October 23, 2006. Verizon did not have any records regarding § 87(2)(b) or § 87(2)(b) subscriber information. No additional contact information could be found for § 87(2)(b) or § 87(2)(b) in Cole's Directory, 411.com, the NYC DMV or Lexis-Nexis. On December 14, 2007, and on January 15, 2008, the undersigned investigator sent letters to § 87(2)(b)'s address as recorded in the 46<sup>th</sup> Precinct command log for October 23, 2006, and to § 87(2)(b) address as recorded on the summons issued to him by Officer Gregory Mullarkey on October 23, 2006. One of each of the letters sent to § 87(2)(b) and § 87(2)(b) were returned by the United States Postal Service; the second letters were not returned. Neither § 87(2)(b) nor § 87(2)(b) has responded to contact attempts.

#### **Police officer statements**

##### ***Officer Michael Dealmeida (witness)***

Officer Dealmeida was interviewed at the CCRB on May 15, 2007 (enclosure 19a-b). Officer Dealmeida is a § 87(2)(b) year old Hispanic male, 5'11" tall and 230 pounds, with brown hair and brown eyes. He is currently assigned to the 46<sup>th</sup> Precinct and has been a member of the NYPD for six years. On October 23, 2006, Officer Dealmeida worked from 12:30 PM to 2:05 AM. He was dressed in plainclothes and was assigned to the 46<sup>th</sup> Precinct SNEU (Street Narcotics Enforcement Unit) with Sergeant Jerome Perry in an unmarked vehicle.

In his memo book (enclosure 14), Officer Dealmeida noted that at 6:00 PM, his SNEU team was operating at § 87(2)(b). At 6:10 PM, § 87(2)(b) a Hispanic male, was arrested for § 87(2)(b). Ten minutes later, at 6:20 PM, § 87(2)(b) a black male, was arrested § 87(2)(a) 160.50, and § 87(2)(b) a black male, was arrested § 87(2)(a) 160.50.

In complaint report § 87(2)(b) (enclosure 15a0c), Officer Dealmeida wrote that on October 23, 2006, at 7:40 PM, inside of § 87(2)(b) § 87(2)(b) worked in concert with and unapprehended individual identified as § 87(2)(b) and that they both exchanged United States currency with § 87(2)(b) for a clear bag of alleged crack cocaine. No physical force was used to effect the arrests.

§ 87(2)(a) 160.50 § 87(2)(b) § 87(2)(b)

A printout of arrest report § 87(2)(b) from the Booking Arraignment Disposition System (BADS) (en § 87(2)(b) e), shows that § 87(2)(b) was arrested at 6:10 PM in the vicinity of § 87(2)(b) § 87(2)(b) Street § 87(2)(b).

Voucher § 87(2)(b) (enclosure 17a) indicates that two small bags of alleged crack cocaine were found by Officer Garcia in § 87(2)(b)'s possession. Voucher § 87(2)(b) (enclosure 17b) indicates that eight small clear ziplock bags of marijuana, field test positive, and one medium clear ziplock bag were found in § 87(2)(b)'s possession by an unidentified officer.

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§ 87(2)(b) § 87(2)(b) § 87(2)(b)

§ 87(2)(b)

§ 87(2)(a) 160.50

§ 87(2)(g)

The additional information he provided in his statement is summarized below.

On October 23, 2006, at approximately 6:00 PM, Officer Dealmeida was sitting in an unmarked vehicle with Sergeant Jerome Perry positioned across the street and approximately two car lengths from the entrance to § 87(2)(b) in the Bronx. Officer Dealmeida observed § 87(2)(b) exchange something with § 87(2)(b) and he observed § 87(2)(b) exchange something with an unknown individual. Officer Dealmeida transmitted descriptions of the individuals to the officers assigned to the SNEU apprehension team, and they arrested § 87(2)(b) around the block from the entrance to § 87(2)(b) at 6:10 PM.

Officer Dealmeida and Sergeant Perry entered the lobby of § 87(2)(b) approximately five minutes after the other officers on the SNEU team. When they entered, Officer Dealmeida saw § 87(2)(b) and § 87(2)(b) already in handcuffs. He did not hear either of them say anything while he was in the lobby. Two female individuals were in the lobby, as well, but Officer Dealmeida did not recall if they were put in handcuffs.

Officer Dealmeida did not recall an officer on the SNEU team who had salt-and-pepper colored hair. He did not recognize either § 87(2)(b) from a photograph taken of him during his interview at the CCRB on November 15, 2006, or § 87(2)(b) from a photograph taken of her during her interview at the CCRB on November 16, 2006.

#### ***Sergeant Jerome Perry (subject)***

Sergeant Perry was interviewed at the CCRB on January 8, 2007 (enclosure 21a-c). Sergeant Perry is a § 87(2)(b) year old black male, 6' tall and 300 pounds, with black hair and brown eyes. He is currently assigned to the 46<sup>th</sup> Precinct and has been a member of the NYPD for sixteen years. On October 23, 2006, Sergeant Perry worked from 12:30 PM to 9:27 PM. He was dressed in plainclothes and assigned to the 46<sup>th</sup> Precinct SNEU team with Officer Dealmeida in an unmarked vehicle. Officers Edward Garcia, Fredrick Ortiz, David Torren, Michael Dealmeida, Raymond Rodriguez and Marilyn Diaz also worked on the SNEU team on October 23, 2006.

In his memo book (enclosure 20a-b), Sergeant Perry noted that at 4:00 PM, he was present at the observation post in the vicinity of § 87(2)(b) with Officer Dealmeida.

§ 87(2)(g)

Sergeant Perry received complaint letters on two separate occasions regarding drug activity in the vicinity of § 87(2)(b) one of which listed § 87(2)(b) of apartment § 87(2)(b) by name. Sergeant Perry could not recall how many people were inside the lobby, but he stated that there were more than three and that they were all male. Sergeant Perry stated that from his experience doing SNEU operations for thirteen years he thought that the individuals who were "in and out" of the building were looking for the police. No one used keys to reenter the building, as someone would open the door and hold it for whoever went outside.

The officers, including Officer Dealmeida, entered § 87(2)(b) and he heard his officers say, "get the fuck on the floor" when they rushed into the building, but he did not recall who said it. Sergeant Perry did not witness any force used or any of the officers with his gun drawn. Sergeant Perry

entered the building to make sure that the officers were alright and to identify the individuals arrested as those Officer Dealmedia observed taking part in the hand-to-hand transactions. Sergeant Perry did not recall precisely how many people were arrested or if § 87(2)(b) was arrested on October 23, 2006, but he stated that § 87(2)(b) had been arrested by him and his SNEU team multiple times in the past. When Sergeant Perry first entered he saw the arrested individuals in handcuffs. Several of them were on their knees and the others were standing.

Sergeant Perry did not recognize § 87(2)(b) from a photograph taken of her during her interview at the CCRB on November 16, 2006. Sergeant Perry recognized § 87(2)(b) from a photograph taken of him during his interview at the CCRB on November 15, 2006.

After approximately ten minutes, Sergeant Perry and Officers Ortiz and Garcia went to apartment § 87(2)(b) to speak with § 87(2)(b). On the § 87(2)(b) floor, an older woman who lived across from apartment § 87(2)(b) was yelling, “fuck the police, they think they can do anything.” Sergeant Perry could not recall if she yelled anything regarding § 87(2)(b) or drugs in apartment § 87(2)(b). Sergeant Perry knocked on the door to apartment § 87(2)(b) and § 87(2)(b) answered. Sergeant Perry introduced himself, Officer Garcia and Officer Ortiz by name, explained why they were there and § 87(2)(b) invited the officers into the apartment.

Sergeant Perry explained to § 87(2)(b) that § 87(2)(b) had been under observation and that they received complaints of his involvement in drug transactions that could endanger § 87(2)(b) and her two children—both of whom were present in the apartment. Sergeant Perry learned from § 87(2)(b) that she is not married to § 87(2)(b) rather he is her boyfriend who lives with her. § 87(2)(b) told Sergeant Perry that they were free to search the apartment if they wanted to. Sergeant Perry stated that § 87(2)(b) was present and helpful throughout the search. Sergeant Perry told § 87(2)(b) that § 87(2)(b) was putting her children in jeopardy and that the Administration for Children’s Services could get involved, and he told her that she could potentially be arrested if a search warrant ever found anything inside the apartment. Sergeant Perry stated that they only searched the bedroom and that § 87(2)(b) did not restrict their access to any of the apartment.

Sergeant Perry supervised Officers Garcia and Ortiz as they performed a ten minute search of the apartment. § 87(2)(b) then signed a piece of paper stating that she was not threatened or forced regarding the search. Sergeant Perry did not recall if he wrote the note that § 87(2)(b) signed. Sergeant Perry shook § 87(2)(b)’s hand, and they left the apartment.

#### ***Officer Frederic Ortiz (subject)***

Officer Ortiz was interviewed at the CCRB on May 9, 2007 (enclosure 23a-c). Officer Ortiz is a § 87(2)(b) year old Hispanic male, 5’10” tall and 190 pounds, with brown hair and brown eyes. He is currently assigned to the 46<sup>th</sup> Precinct and has been a member of the NYPD for three years. On October 23, 2006, Officer Ortiz worked from 8:00 AM to 5:05 PM. He was dressed in plainclothes and assigned to the 46<sup>th</sup> Precinct SNEU apprehension team with Officer Edward Garcia in an unmarked vehicle. His memo book contained no relevant entries (enclosure 22a-b). § 87(2)(g)

On October 23, 2006 at approximately 4:00 PM, Officer Ortiz received a transmission describing the buyer in a narcotics transactions, though he did not recall the description. Officer Ortiz and Officer Garcia arrested § 87(2)(b) based on the description, and they found that he was in possession of narcotics. After they apprehended § 87(2)(b) Officer Ortiz was ordered to apprehend § 87(2)(b) who was described as a black or Hispanic male, 5’6” tall with dark skin, who was standing between the doors in the front entrance to § 87(2)(b).

§ 87(2)(b) held the front door of § 87(2)(b) open for Officers Ortiz and Garcia to enter. They were dressed in plainclothes and did not identify themselves as officers until they had walked to the back of the lobby in order to ensure that no one would run by them when the other officers entered the building. There were eight people in the lobby, but Officer Ortiz did not recall who they were. After they had been in the lobby for between five and ten seconds, Officer Ortiz and Officer Garcia radioed for the rest of the team to move in.

The officers ordered everyone onto their knees, and everyone complied, at which time Sergeant Perry, entered the building to positively identify § 87(2)(b) so he could be arrested. Officer Ortiz had his gun drawn, but he could not recall who else drew his gun. He drew his gun in case someone in the lobby had a weapon, and once the situation was under control he put away his gun. Officer Ortiz could not recall how many people were arrested. Officer Ortiz did not recall if he placed anyone in handcuffs; he stated



that not everyone who was in the lobby was placed in handcuffs. Officer Ortiz recognized § 87(2)(b) from a photograph taken of him during his interview at the CCRB on November 15, 2006, and he stated that § 87(2)(b) was the seller whom they arrested on October 23, 2006.

Officer Ortiz was shown a photograph of § 87(2)(b) taken during her CCRB interview on November 16, 2006, but he did not recall seeing her in the entranceway. Officer Ortiz saw a § 87(2)(b) old girl in the lobby, and he stated that everyone was stopped until Sergeant Perry verified § 87(2)(b)'s arrest. Officer Ortiz stated that no force was used in effect § 87(2)(b)'s arrest aside from Officer Ortiz having his gun drawn.

§ 87(2)(b) was taken from the lobby to the black prisoner van. Officer Ortiz did not escort anyone to the prisoner van. The officers searched the lobby area after § 87(2)(b) was removed to the prisoner van.

Officer Ortiz § 87(2)(g) did not recall if Sergeant Perry ever mentioned ACS. He could not recall if they went directly back to the precinct after they searched apartment § 87(2)(b). He did not recall if § 87(2)(b) was strip-searched at the precinct.

Officer Ortiz did not recall any officers on the SNEU team with gray or salt-and-pepper hair.

***Officer Edward Garcia (witness)***

Officer Garcia was interviewed at the CCRB on May 31, 2007 (enclosure 25a-c). Officer Garcia is a § 87(2)(b) year old Hispanic male, 5'9" tall and 175 pounds, with black hair and brown eyes. He is currently assigned to the 46<sup>th</sup> Precinct and has been a member of the NYPD for four years. On October 23, 2006, Officer Garcia worked from 12:30 PM to 9:05 PM. He was dressed in plainclothes and assigned to the 46<sup>th</sup> Precinct SNEU apprehension team with Officer Ortiz in unmarked vehicle § 87(2)(e), § 87(2)(b).

In his memo book (enclosure 24a-b), Officer Garcia noted that at 6:35 PM he had one female under arrest § 87(2)(b), and at 6:45 PM he had one male under arrest § 87(2)(b).

§ 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

On October 23, 2006, at approximately 4:00 PM, the 46<sup>th</sup> Precinct SNEU team was doing an operation in the vicinity of § 87(2)(b) in the Bronx. They were set up outside of this location because there were complaints of drug transactions and the area is known for shootings.

Officer Garcia drew his gun as he entered the lobby and yelled, "Police, don't move, get on the ground." When he and one other officer entered the location with five males, he drew his gun because he did not know what he would find. Officer Garcia did not use nor did he hear any of the other officers use profanity. One of the men in the lobby tried to run away up the stairs while the others complied with his orders. Officer Garcia only saw part of the runner's body as he went up the stairs. He escaped and was not apprehended. Officer Garcia pointed his gun at everyone while he was in the lobby. He holstered his weapon after everyone was on the ground. Everyone was on the floor when the other officers entered the lobby. One of the civilians in the lobby asked why the officers were "doing this." A couple of the people in the lobby were put in handcuffs; Officer Garcia could not remember how many people or who put them in handcuffs. Officer Garcia did not see any children in the lobby. He did not know if the officers had difficulty putting the handcuffs on the people in the lobby. He could not recall if anyone was searched in the lobby. He remembered that the building's superintendent, § 87(2)(b), was in the lobby carrying sheet rock.

He observed Sergeant Jerome Perry, the SNEU supervisor, go upstairs. Officer Garcia and Officer Ortiz decided to follow him to the § 87(2)(b) floor. An older female on the same floor (who was identified by this investigation as § 87(2)(b)) got into an argument with Sergeant Perry. § 87(2)(b) opened the door to apartment § 87(2)(b) and she and § 87(2)(b) started to argue. Sergeant Perry identified himself. § 87(2)(b) invited Sergeant Perry inside because she did not want everyone to know her business. One of the officers wrote a note stating that § 87(2)(b) gave consent for them to enter the apartment. Officer Garcia could not recall who wrote the note. Sergeant Perry asked the woman where § 87(2)(b) slept. Officer Garcia and Officer Ortiz searched the side of the bed where § 87(2)(b) slept, the dresser where he kept his clothes, inside the closet where he hung his jacket and near the window where he kept his shoes. § 87(2)(b) was present throughout the search. Officer Garcia stated that they did not find anything.

The apprehended individuals were already inside the prisoner van by the time he returned to the lobby, but the officers were still searching the area. He could not recall if anything was found on any of the individuals or on the premises.

Officer Garcia recognized § 87(2)(b) from a photograph taken during § 87(2)(b)'s CCRB interview from seeing him in the vicinity of § 87(2)(b) but he could not recall if he saw § 87(2)(b) on October 23, 2006. Officer Garcia recognized § 87(2)(b) from a photograph taken at her CCRB interview. He recognized her as the woman who opened the apartment door for Sergeant Perry. He did not see her in the lobby of § 87(2)(b). Officer Garcia stated that none of the SNEU members could be described as a white male, 5'5" tall, chubby build with salt-and-pepper hair.

***Officer David Torren (witness)***

Officer Torren was interviewed at the CCRB on August 1, 2007 (enclosure 27a-b). Officer Torren is a § 87(2)(b) year old Hispanic male, 5'9" tall, with black hair, brown eyes, a goatee and missing the last joint on his left middle finger. He is currently assigned to the 46<sup>th</sup> Precinct and has been a member of the NYPD for twelve years. On October 23, 2006, Officer Torren worked from 12:30 PM to 9:05 PM. He was dressed in plainclothes and was assigned to the 46<sup>th</sup> Precinct SNEU team chase car with Officer Raymond Rodriguez. Officer Torren's memo book contained no relevant entries (enclosure 26a-b).

On October 23, 2006, at approximately 4:00 PM, Officer Torren and Officer Rodriguez were in the chase car as part of a SNEU operation in the vicinity of § 87(2)(b) in the Bronx. He was pretty sure that a description of the transaction was transmitted over the radio, but he could not recall what it was as it was many months ago. When in the chase car, they try to hide the car so that people won't see that the police are watching the building. Once they get the call to move in, they slowly move the car forward and then finally rush into the building. Officer Torren and Officer Rodriguez entered the lobby of § 87(2)(b) in the Bronx to back up Officers Edward Garcia and Frederic Ortiz who entered approximately three to five minutes prior. He did not see whether Officers Garcia and Ortiz had their guns drawn. Officer Torren could not recall if either he or Officer Rodriguez had their guns drawn when they entered the lobby. When they entered the lobby, there were already some people in handcuffs against the wall.

Between two and four suspects were already against the wall when Officer Torren entered, and he was concerned with keeping them from making any moves. He could not recall if Officers Garcia and Ortiz told him that the suspects resisted being put in handcuffs. Officer Torren thought that the suspects were arrested for drug sales. He could not recall if anyone else was arrested in relation to the drug sales, and Officer Torren could not recall if there was anyone in the lobby who was not escorted to the prisoner van. He could not recall arresting anyone else in the area. He did not see injuries on any of the suspects, and he did not hear them say anything. He was inside the lobby for approximately five to seven minutes before escorting the suspects to the prisoner van. He did not know of any force required to subdue the suspects aside from bringing their arms behind their backs and handcuffing them. Officer Torren did not see Officer Rodriguez make any physical contact with the suspects. He did not see Officers Garcia or Ortiz point their guns at anyone's head. He could not recall seeing anyone on the ground. Sgt. Perry had to be at the scene, but Officer Torren could not remember specifically if Sgt. Perry was at the location when the arrests were made. He stated that neither he nor Officer Rodriguez had any interaction with anyone in the lobby aside from escorting them to the prisoner van.

Officer Torren stated that there is no position that is responsible for strip-searching the suspects. He did not recall having any interaction with the suspects at the stationhouse. He did not recall hearing whether the suspects were strip searched at the stationhouse. He stated that the supervising officer authorizes and records strip searches. Officer Torren did not know where the supervisor documents the searches, but he stated that he does not document them in his paperwork.

Officer Torren recognized § 87(2)(b) from his photograph taken during his CCRB interview. He stated that the SNEU team arrested § 87(2)(b) again within the past few weeks in § 87(2)(b). Officer Torren was on vacation at the time. Officer Torren had not had prior interactions with § 87(2)(b) before October 23, 2006. Did not recognize § 87(2)(b) and he did not see her in the lobby on October 23, 2006. Officer Torren could not be sure if he recognized § 87(2)(b) from his arrest photograph.

**Officer Gregory Mullarkey (witness)**

Officer Gregory Mullarkey was interviewed at the CCRB on February 11, 2008 (enclosure 30a-c). Officer Mullarkey is a § 87(2)(b) year old white male, 6' tall and 185 pounds, with very light, almost grayish-brown hair and hazel eyes. He is currently assigned to the 46<sup>th</sup> Precinct and has been a member of the NYPD for nine years. On October 23, 2006, Officer Mullarkey worked in uniform from 12:30 PM to 9:05 PM assigned to the 46<sup>th</sup> Precinct SNEU team prisoner van, an unmarked black van § 87(2)(e), § 87(2)(b), with Officer Michael Dealmeida; Officer Mullarkey was the recorder. His memo book contained no relevant entries (enclosure 28a-c), and he issued summons number § 87(2)(b) (enclosure 29). § 87(2)(g) Below is the additional information he provided.

Officer Mullarkey and Officer Dealmeida were in the prisoner van approximately a block away from § 87(2)(b). They were parked out of sight of the building so that the presence of the van would not alert the civilians in the lobby of § 87(2)(b) to police presence. It took Officer Mullarkey approximately a minute to get to the location after they received Sergeant Perry's order to apprehend § 87(2)(b). They waited for Officers Garcia and Ortiz, who were assigned to the chase car, to enter the location so that the sight of the prisoner van would not cause the civilians inside the lobby to run to and lock themselves inside their apartments.

Officers Garcia and Ortiz were inside the location for approximately a minute before Officer Mullarkey entered. He could neither see nor hear what happened inside the location before he entered, and Officers Garcia and Ortiz did not make any radio calls. Officer Mullarkey did not recall who else entered the location before he did. Officer Dealmeida entered the location with Officer Mullarkey. When he entered, he saw § 87(2)(b) sitting on the floor to the right of the inner door to the lobby. Officer Mullarkey did not recall how many other civilians were in the lobby. Officer Mullarkey did not have any physical interaction with any of the other civilians in the lobby. Officer Mullarkey saw another officer search a civilian in the lobby, but he did not recall which officer, which civilian, or when this happened. Officer Mullarkey did not recall if § 87(2)(b) was already in handcuffs or if he handcuffed § 87(2)(b) later. An envelope was made for § 87(2)(b)'s property, and Officer Mullarkey frisked § 87(2)(b) while he was still sitting on the floor. No other civilians were on the floor or put against the walls. Officer Mullarkey did not see any injuries on § 87(2)(b). Approximately five minutes later, § 87(2)(b) was escorted to the prisoner van by unknown officers. Officer Mullarkey did not recall if there were other people in the prisoner van before § 87(2)(b) was put inside. He did not recall conducting other operations on October 23, 2006, before the one involved in this incident.

§ 87(2)(b) was not screaming or yelling, and he was not resisting. None of the officers including Officer Mullarkey, drew their guns. None of the officers, including Officer Mullarkey, said, "No one told you to send your fucking § 87(2)(b) year old son to the store," nor did any of the officers use any profanity. Officer Mullarkey did not recall if there were any children in the lobby or if anyone was prevented from entering the building. Officer Mullarkey did not see anyone put his arms around § 87(2)(b)'s neck or tackle him to the floor.

Sergeant Perry and Officer Rodriguez entered the lobby at an unknown time and remained in the lobby for less than one minute before proceeding upstairs to search § 87(2)(b)'s apartment. Officer Mullarkey did not recall who went upstairs with Sergeant Perry. Officer Dealmeida remained in the lobby with Officer Mullarkey throughout this incident.

Three people, including § 87(2)(b), were taken to the prisoner van, but Officer Mullarkey did not recall who they were. There was a buyer involved in the operation, and Officer Mullarkey thought that he was put in the van first, though he did not recall when. Officer Mullarkey recognized § 87(2)(b) as the buyer involved in this incident from a copy of § 87(2)(b)'s arrest photograph taken on October 23, 2006. Officer Mullarkey did not recall when § 87(2)(b) was put into the prisoner van.

Officer Mullarkey did not recognize § 87(2)(b) from a photograph taken of her during her interview at the CCRB on November 16, 2006. Officer Mullarkey did not recall if any females were taken to the prisoner van. No one was taken to the prisoner van who was then released. Everyone taken to the prisoner van was already in handcuffs.

Officer Mullarkey escorted § 87(2)(b) into the 46<sup>th</sup> Precinct stationhouse. Officer Mullarkey did not recall who processed § 87(2)(b). Officer Mullarkey was not aware of whether § 87(2)(b) was strip-searched at the stationhouse.



[illegible]

On November 8, 2007, the New York City Office of the Comptroller confirmed that no Notice of Claim has been filed regarding this case (enclosure 40).

### Civilian CCRB histories

This is the first complaint at the CCRB for both § 87(2)(b) and § 87(2)(b) (enclosure 3a-b).

## Conclusions and Recommendations

### Police officer identification and pleading

This investigation identified Officer Dealmeida from the paperwork he filed regarding § 87(2)(b)'s arrest on October 23, 2006. This investigation identified Sergeant Perry from § 87(2)(b)'s statements. This investigation identified Officers Garcia and Ortiz from § 87(2)(b)'s and § 87(2)(b)'s statements. This investigation identified Officers Torren, Rodriguez and Diaz from Sergeant Perry's statements. This investigation identified Officer Mullarkey from the summons he issued to § 87(2)(b) on October 23, 2006. All the officers acknowledged their presence with the exception of Officer Rodriguez who was not interviewed and Officer Diaz who was not on duty.

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§ 87(2)(b) In his phone statement, § 87(2)(b) described this officer as a white male with salt-and-pepper hair, wearing blue jeans, a white shirt and Timberland boots. During his CCRB interview, he described this officer as a Hispanic male, 5'7" tall, thirty years old, short hair, stocky build, wearing a black hooded sweatshirt, jeans, a white shirt and Timberland boots. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)'s photo array was conducted more than a year after the date of this incident, and he has since interacted with the 46<sup>th</sup> Precinct SNEU and is incarcerated at Riker's Island as a result. § 87(2)(b)

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b) identified Officer Ortiz by name as the officer who used profanity when addressing her. § 87(2)(g)

apartment and was introduced to her by name by Sergeant Perry. § 87(2)(g)

§ 87(2)(b) identified the sergeant who entered her apartment as Sergeant Perry, and she described him as a black male, 5'9" tall, heavy build and bald. § 87(2)(g) he acknowledged entering § 87(2)(b)'s apartment. Sergeant Perry was assigned to be the SNEU supervisor on October 23, 2006, § 87(2)(g)

§ 87(2)(b) alleged that an officer whom he could not describe and who was not present at § 87(2)(b) when he was arrested strip-searched him at the 46<sup>th</sup> Precinct stationhouse. § 87(2)(g)

#### **Allegations not pleaded**

§ 87(2)(b) alleged that an officer pointed his gun at § 87(2)(b) and told him to "Get the fuck down." This investigation located § 87(2)(b) on November 29, 2007, at § 87(2)(b) at which time, § 87(2)(b) stated that he did not remember being present during this incident. § 87(2)(b), § 87(2)(g)

During her phone statement, § 87(2)(b) alleged that an officer used physical force against a man named "§ 87(2)(b) § 87(2)(b), § 87(2)(g)

#### **Undisputed facts**

§ 87(2)(b), § 87(2)(g) Subsequent to § 87(2)(b)'s arrest, Sergeant Perry and Officers Ortiz and Garcia went to apartment § 87(2)(b) in § 87(2)(b) and were granted access to the apartment by § 87(2)(b) at which time they searched the apartment. After the search, § 87(2)(b) was taken to the 46<sup>th</sup> Precinct stationhouse.

#### **Assessment of evidence**

§ 87(2)(b), § 87(2)(g) The evidence pertaining to the allegations of physical force is as follows. § 87(2)(b) alleged that an officer grabbed him around the neck, brought him to the ground and punched the left side of his face. § 87(2)(g) At the time of his CCRB interview, § 87(2)(b)'s criminal court trial was ongoing. At the time of his photo array, which was conducted thirteen months after the date of incident, he was incarcerated at Riker's Island. § 87(2)(b) His arrest photograph shows no indication of an injury resulting from a punch to the left side of his face. § 87(2)(b), § 87(2)(g)

None of the interviewed officers acknowledge physically interacting with § 87(2)(b) § 87(2)(b), § 87(2)(g)

The evidence regarding the allegations of discourtesy toward § 87(2)(b) is as follows. § 87(2)(b) alleged that an officer told him to "Shut the fuck up," and that another officer told § 87(2)(b) to "Get the fuck down." § 87(2)(b), § 87(2)(g)

During his CCRB interview, § 87(2)(b) attributed the discourtesy to the officer who approached him and brought him to the ground. § 87(2)(b) stated that the officers who entered the lobby told everyone to "Put [their] fucking hands up," § 87(2)(b), § 87(2)(g)

According to Sergeant Perry, the officers who entered the lobby said, "Get the fuck on the floor," but Sergeant Perry did not recall which officer said this. The other interviewed officer denied using profanity when speaking with the civilians inside § 87(2)(b) § 87(2)(b), § 87(2)(g)

The evidence regarding the allegation that Officer Ortiz spoke obscenely and/or rudely to § 87(2)(b) is as follows. § 87(2)(b) was not present when the officers first entered the building, but she stated that when she came downstairs, an officer told her, “No one told you to send your fucking § 87(2)(b) year old son to the store.” During her phone statement § 87(2)(b) did not allege that Officer Ortiz used any profanity. According to § 87(2)(b) the officers who entered the lobby used profanity, and Sergeant Perry stated that he heard the officers use profanity. Neither § 87(2)(b) nor Sergeant Perry could identify the officer they heard. The other interviewed officers denied hearing or using profanity. § 87(2)(b), § 87(2)(g)

The evidence regarding the entry into § 87(2)(b)'s apartment is as follows. According to § 87(2)(b) Sergeant Perry told her that he knew that she had an open case with ACS regarding domestic violence. She invited the officers into her apartment and signed a letter stating that she was not coerced or forced to give the officers permission to search her apartment. According to Sergeant Perry, he told § 87(2)(b) that ACS could get involved if they found narcotics in her apartment. § 87(2)(b), § 87(2)(g)

The evidence regarding the alleged strip-search is as follows. § 87(2)(b) stated during his CCRB interview that he was strip-searched at the 46<sup>th</sup> Precinct stationhouse by the officer who handcuffed him, the prisoner van operator and a third officer who was not present during his arrest. None of the officers interviewed could recall if § 87(2)(b) was strip-searched, § 87(2)(b), § 87(2)(g)

**Allegation A. Force – Inside § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)**

**Allegation B. Discourtesy – Inside § 87(2)(b) in the Bronx, officers spoke obscenely and/or rudely to § 87(2)(b)**

§ 87(2)(b) alleged that in the lobby of § 87(2)(b) in the Bronx, an officer used physical force against him and spoke obscenely and/or rudely to him. § 87(2)(g)

**Allegation C. Discourtesy – Inside § 87(2)(b) in the Bronx, Officer Frederic Ortiz spoke obscenely and/or rudely to § 87(2)(b)**

§ 87(2)(b) alleged that Officer Ortiz spoke obscenely and/or rudely to her inside § 87(2)(b) in the Bronx. § 87(2)(b), § 87(2)(g)

**Allegation D. Abuse – Sergeant Jerome Perry authorized the entry and search of § 87(2)(b) apartment § 87(2)(b) in the Bronx.**

§ 87(2)(b) alleged that Sergeant Perry, Officer Ortiz and Officer Garcia entered her apartment located at § 87(2)(b) apartment § 87(2)(b) in the Bronx. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that Sergeant Perry mentioned an open ACS case involving § 87(2)(b) which made her feel pressured into granting the officers entry. According to NYPD PG (Patrol Guide) procedure 215-03, a neglected child:

“Means a child less than eighteen years of age whose physical, mental or emotional condition...is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care in providing the child with proper supervision or guardianship...by misusing a drug or drugs.”

PG 215-03 also states that ACS workers can be involved in the removal of a child found to be in imminent danger under the above definition (enclosure 1a-c).

§ 87(2)(b) was arrested on October 23, 2006, § 87(2)(a) 160.50  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)

**Allegation E. Abuse – Inside the 46<sup>th</sup> Precinct stationhouse, Sergeant Jerome Perry authorized the strip-searched of § 87(2)(b)**

§ 87(2)(b) alleged that he was strip-searched at the 46<sup>th</sup> Precinct stationhouse, § 87(2)(g)

According to PG 208-05, an officer may conduct a strip-search when he “reasonably suspects that weapons, contraband or evidence may be concealed upon the person or the clothing in such a manner that they may not be discovered by the previous search methods” (enclosure 1d-e). § 87(2)(b) was apprehended as the seller in an observed narcotics sale. In *PD v. Thompson*, a lieutenant was informed by his officers that the prisoner was arrested on suspicion of drug possession, and he was found not to have violated the Patrol Guide when he authorized a strip-search of the prisoner (enclosure 1f-g).

§ 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: